

**To:** "Nepstad, Michael G SPK" [Michael.G.Nepstad@usace.army.mil]; rin  
Foresman/R9/USEPA/US@EPA[]  
**Cc:** Tom Hagler/R9/USEPA/US@EPA;"Jewell, Michael S SPK"  
[Michael.S.Jewell@usace.army.mil]; Jewell, Michael S SPK" [Michael.S.Jewell@usace.army.mil];  
aren Schwinn/R9/USEPA/US@EPA[]  
**From:** "Robershotte, Paul J SPD"  
**Sent:** Wed 6/22/2011 12:13:14 AM  
**Subject:** RE: Attached is latest Draft MOU (UNCLASSIFIED)  
[smime.p7s](#)

Classification: UNCLASSIFIED  
Caveats: NONE

Mike

I will get to the "MOU" meeting as soon as we break free from the weekly  
Meral/Cowin "5 Agency" BDCP, which is scheduled to end at 10:30am, then I  
will walk over to 650 from RA.

Best  
Paul

-----Original Message-----

From: Nepstad, Michael G SPK  
Sent: Tuesday, June 21, 2011 8:48 AM  
To: 'Foresman.Erin@epamail.epa.gov'  
Cc: Robershotte, Paul J SPD; 'Hagler.Tom@epamail.epa.gov'; Jewell, Michael S  
SPK  
Subject: RE: Attached is latest Draft MOU

Latest draft. All BOR comments were fine, and I added in FWS as well.

Michael G. Nepstad  
Deputy Chief, Regulatory Division  
US Army Corps of Engineers, Sacramento District 650 Capitol Mall, Suite  
5-200 Sacramento, California 95814  
(916) 557-7262 Fax:(916) 557-6877  
michael.g.nepstad@usace.army.mil

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-----Original Message-----

From: Foresman.Erin@epamail.epa.gov [mailto:Foresman.Erin@epamail.epa.gov]  
Sent: Tuesday, June 21, 2011 8:35 AM

To: Nepstad, Michael G SPK  
Subject: RE: Attached is latest Draft MOU

do you want to incorporate their suggestions before i send it out or have discussion about them tomorrow?

\*\*\*\*\*

Erin Foresman  
Environmental Scientist & Policy Coordinator, US EPA Region 9 C/O Army Corps  
of Engineers 650 Capitol Mall Suite 5-200, Sacramento, CA 95814  
Phone: (916) 557 5253, Fax: (916) 930 9506

<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

-----"Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil> wrote:  
-----

To: Erin Foresman/R9/USEPA/US@EPA  
From: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>  
Date: 06/21/2011 08:30AM  
Cc: "Robershotte, Paul J SPD" <Paul.J.Robershotte@usace.army.mil>,  
Tom Hagler/R9/USEPA/US@EPA  
Subject: RE: Attached is latest Draft MOU

No it doesn't have patti's, just some of the fws comments.

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-----Original Message-----

From: [Foresman.Erin@epamail.epa.gov](mailto:Foresman.Erin@epamail.epa.gov)  
[mailto:[Foresman.Erin@epamail.epa.gov](mailto:Foresman.Erin@epamail.epa.gov)]  
Sent: Tuesday, June 21, 2011 8:28 AM

To: Nepstad, Michael G SPK  
Cc: Robershotte, Paul J SPD; Hagler.Tom@epamail.epa.gov  
Subject: Re: Attached is latest Draft MOU

Hi Mike,

Just want to make sure that this draft MOU includes Patti et al's comments.  
She mentioned they'd be sending you something on Monday. I'll send out meeting confirmation, agenda, and materials as soon as I hear from you.

\*\*\*\*\*

Erin Foresman  
Environmental Scientist & Policy Coordinator, US EPA Region 9 C/O  
Army Corps  
of Engineers 650 Capitol Mall Suite 5-200, Sacramento, CA 95814  
Phone: (916) 557 5253, Fax: (916) 930 9506

<http://www.epa.gov/region9/water/watershed/sfbay-delta/index.html>

-----"Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>  
wrote:  
-----

To: Tom Hagler/R9/USEPA/US@EPA, Erin Foresman/R9/USEPA/US@EPA  
From: "Nepstad, Michael G SPK" <Michael.G.Nepstad@usace.army.mil>  
Date: 06/20/2011 03:45PM  
Cc: "Robershotte, Paul J SPD" <Paul.J.Robershotte@usace.army.mil>  
Subject: Attached is latest Draft MOU

Tom and Erin,

I like your write up and have no problem with it. Attached is latest draft.

I may not be able to attend meeting Wednesday as there are very serious administrative issues for me to deal with (which waited for Michael Jewell to go on vacation before it surfaced, as usual). So I'm entrusting Erin to lead if I can't make it (I will try to make it, but things are breaking too fast to know now if I will or not).

MOU needs to be signed soon, so after this meeting we should have the third draft be fully vetted by each agency's counsels and deciders (including DWR's) so we have one last set of comments and then can go to

signature  
ready version within a month or sooner. Our July 20th meeting should  
be the  
first meeting under the MOU, rather than our last meeting to develop  
the  
MOU.

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-----Original Message-----

From: Hagler.Tom@epamail.epa.gov [mailto:Hagler.Tom@epamail.epa.gov]

Sent: Monday, June 20, 2011 12:13 PM

To: Nepstad, Michael G SPK

Cc: Pldlof@usbr.gov; Foresman.Erin@epamail.epa.gov

Subject: Suggestions to BDCP MOU

Mike -

I just reread the MOU in a quiet space, and don't have any  
substantive changes. This is in part because I vaguely recall being  
part of  
the EPA team who worked on the earlier HSR and CalTrans MOUs that  
were the  
model. But here are two comments:

(1) I especially like what you added to the front, where you  
explicitly articulated who will be relying on this EIS for what  
permits.  
That will focus people's minds.

(2) Trying to be responsive to the CEQ/DOI constellation from

last  
week, I drafted a new section for the MOU where we explicitly agree  
on the  
P+N, as published in February 2010 and "interpreted" in October  
2010.

However, after talking to Erin and after rereading the MOU  
and the  
P+N, I realized that we have only discussed the "NEPA purpose"  
statement.  
That is, we haven't really talked about the "NEPA need" statement  
nor have  
we ever seen something that could be characterized as a Corps "basic  
and  
overall purpose" statement covering the site-specific projects  
covered by  
this EIS.

So I'm proposing that you send out this one pager on  
"Agreement on  
NEPA Purpose Statement" as a separate attachment for now, rather  
than  
putting it into the next draft. We need to talk about whether doing  
any  
agreement on purpose makes sense, absent motion on the other parts  
of the  
P+N issue.

Erin - This is different from what you saw, only in that I  
tailored  
it for "purpose" as opposed to "purpose and need."

Here's the attachment:

\*\*\*\*\*  
\*\*\*\*\*

Tom Hagler  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region 9  
75 Hawthorne Street, RC-2  
San Francisco, California 94105-3901  
Phone: (415)972-3945

[attachment "P+Nfor404MOU062011.docx" removed by Erin  
Foresman/R9/USEPA/US]

[attachment "BDCP\_NEPA\_CWA\_RHA\_MOU DRAFT 20 June 2011.docx" removed  
by Erin  
Foresman/R9/USEPA/US]

Classification: UNCLASSIFIED  
Caveats: NONE